

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 3, 2007
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

**CITY COUNCIL ORGANIZATIONAL MEETING
MONDAY, DECEMBER 3, 2007
7:00 P.M.**

A. Durham County Board of Elections - Michael H. Ashe, Director of Elections

1. Certification of November 6, 2007 Municipal Election

Director of Elections Michael H. Ashe presented the abstract of the original returns of the 2007 City of Durham Municipal Election to City Clerk D. Ann Gray.

Mayor

William V. "Bill" Bell - 18,835

At-Large

Farad Ali - 13,888

Eugene A. Brown - 17,853

Diane Catotti - 21,334

2. Presentation of Election Certificates

Director of Elections Michael H. Ashe presented election certificates to the following individuals: William V. "Bill" Bell, Farad Ali, Eugene A. Brown and Diane N. Catotti.

Mayor Bell thanked Kids Voting Durham for their leadership. Coordinator Carolyn Kreuger made comments on the program and the students introduced themselves and provided Mayor Bell with a list of what they would accomplish in office.

B. Presentation of Service Plaque by Mayor William V. "Bill" Bell

Mayor Bell presented a service plaque to Thomas A. Stith, III.

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Council Member Stith congratulated the new City Council and thanked his family and others for their time and support during his tenure on the Council.

C. Solo by Evelyn Wright-Corbett

Evelyn Wright-Corbett sang a solo entitled "*You'll Never Walk Alone*"

D. Swearing In and Qualifying of Mayor by Chief District Court Judge
Elaine M. Bushfan

Judge Elaine M. Bushfan administered the oath of office to William V. "Bill" Bell as Mayor.

E. Swearing In and Qualifying of City Council Members by Chief District Court Judge
Elaine M. Bushfan

Judge Elaine M. Bushfan administered the oath of office to the following individuals as City Council Members:

Farad Ali
Eugene A. Brown
Diane N. Catotti

After the swearing in of the Mayor and Council Members, the following members were present at the meeting: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.

F. Council Members Take Their Seats

Farad Ali
Eugene A. Brown
Diane N. Catotti

G. Remarks by Newly Elected and Re-elected Council Members

Mayor Bell read the following statement:

Remarks at December 3, 2007 Mayoral Swearing In Ceremony

Let me first give thanks to God for the many blessing that he has bestowed on me throughout my term as an elected official. I also again want to publicly thank my wife Judith, our children and family for their support, especially during this most recent campaign. And I want to thank all of those who worked in our campaign, Linda Wallace for her hard work as my campaign chairwomen and all of the other committee supporters and the voters who voted and worked in many ways for my re-election.

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I want the public to know that I take seriously my position as Mayor of this city and it is a position that I am deeply appreciative of having the opportunity to serve. I want all of our citizens to know regardless of who did or did not vote for me that I consider myself to be the Mayor of all our citizens and my door and phone remain open if you choose to call. I really believe and know that Durham is a good city in which to live. It is a city that has many good and caring people. It is a city that I tell people very often that I am here by choice and not by chance and that I have chosen to make it my home.

I also realize that we have challenges that we as a city must and can meet. I also know that there were issues raised in this campaign primarily concerning crime and gangs in our city and accountability in the city government that must continue to be addressed. The issue of reducing crime and addressing the issue of gangs will continue to be a priority for me as mayor and also for this council. But I will repeat that reducing crime and addressing the issue of gangs has to also be a community solution. The areas of intervention, prevention and enforcement are the three key areas that we must focus as we work to reduce crime and gangs in our city. Intervention and prevention are areas that can not be the sole responsibility of the city council and city administration if it is to be effective. We have to have the community at large to be partners and accept the responsibility of working in these areas. Enforcement is an area that we as a city have to continue to take the leadership role working in partnership with the community and principally with our police department, the Office of the Sheriff and the court system. We enter this new term with a new police chief. Chief Jose Lopez's assumption of the position as Chief of Police and his leadership has been very well received by the citizens of this city and we as a council and city must continue to give him the support, resources and tools necessary for him and his department to be effective in carrying out their areas of responsibility.

Within the next couple of weeks we will be receiving the report of the consultants who have completed their Gang Assessment Report. We will give serious consideration to their recommendations and respond to those recommendations that we are in agreement, even if it means changing our approach to how we have been dealing with gangs.

The issue of accountability begins at the city council and flows to all those who work in city government no matter at what level. We on the city council and also the citizens of Durham expect, as well they should, that all city employees take their jobs responsibly and expect to be held accountable for their actions. Under my term as Mayor we implemented a system of Pay for Performance. This was done to reward those employees as appropriate for how well they did or did not perform in the jobs for which they were responsible. With the exception of instances where persons have been proven to have willfully been negligent or irresponsible in their actions and hence can be immediately terminated, we have a system where those persons who are not performing at an acceptable level can be separated from the city after first having been given the chance to bring their performance up to acceptable levels. It is the responsibility of department managers to fairly and effectively administer these appraisal programs and to make the necessary terminations where appropriate. That responsibility also rest with the city council and equally applies to those employees it hires.

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I have been asked by many persons both during and after the campaign what would be my priorities as Mayor of Durham. As some of you know when I was first elected Mayor in 2001, I begin the routine of annually delivering a state of the city address during the first quarter of the year. It is during that time that I lay out my vision and priorities for the city council's consideration. I will continue giving the "State of the City" address again in 2008; therefore I will not go into the details of my priorities tonight.

However we know that with the exception of death and some type of taxes, nothing in life is guaranteed, so we must always expect that an exception will occur that we have not anticipated and that might cause us to reorder our priorities.

That exception this year has been the extreme drought that we are now experiencing in some parts of this nation, our state, our region and specifically in Durham. In this case we have relied probably too much on our past experiences in guiding our actions and reactions to this drought. In hindsight that may have not been the best approach, but hopefully we have learned from this experience.

Therefore in my opinion, our very top priority has to be to work very hard to find present and future solutions to our acute water situation. I have said that water conservation has to become the rule and not the exception. I attended a ribbon cutting today (Artful Greetings) with the President/CEO of the Greater Durham Chamber of Commerce's Casey Steinbacher and she informed me that the Chamber is sending out an e-mail to its members encouraging them to take measures to conserve water in accordance with our latest restrictions. We are very appreciative of the Chamber's efforts in that regard. We have also received an offer of assistance from Duke University's School of the Environment & Earth Sciences Dean Bill Chameides and Bill Holman, visiting Senior Fellow as to how we may more efficiently use our water resources. Hopefully I will be able to say more about this and other possibilities in the next few months.

Water conservation is very, very important, but conservation alone is not going to be the only solution to our water situation. As Mayor I want our council and the administration to be more proactive in addressing this very important and crucial water situation.

There are short term and long term solutions to our water crisis and tonight I am requesting the city manager to present a specific detailed plan for addressing one of the short term solutions to help us in the coming months. That request is to immediately put a plan into action and implementation of making the additional interconnection to Cary which will enable us to draw additional water from Lake Jordan. I want him to present that specific plan to the city council for our consideration at our Thursday (12/6/2007) city council work session. The plan should include key action and implementation dates and identify the sources of funds to pay for this interconnection as well as assurances that we will have the necessary regulatory approvals to implement this interconnection. If the funding is not readily identifiable and available I would strongly suggest that we look at the 2/3 GO Bonds as a possible source.

Finally in addition to finding a solution to our water situation, I can briefly state that other priorities will be, but not limited to, the following issues:

- Continuing our efforts in reducing crime

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- Continue working with public private partnerships in the redevelopment of Down Town Durham
- Utilizing Public Private Partnerships in conjunction with community partnerships to revitalize and redevelop some of our inner city neighborhoods
- Working to bring more jobs to Durham where Durham Citizens can become employees
- Working to develop programs to reduce carbon emissions
- Focusing of how we can more efficiently and effectively deliver our core city services.
- Delivering on our commitment to deliver those projects in a timely fashion that were approved by the voters on the GO Bonds in 2005 and 2007.
- Finding more jobs for the Mayor's Summer Youth Work Program.
- Stream lining our development approval process without sacrificing the quality of review.

Again I want to thank all of you and especially my city council colleagues for their support over the years and for allowing me to exercise the privilege as Mayor to take the time to share some of my thoughts with you this evening.

I look forward with excitement over the next two years in working with this council and our citizens. And while we have challenges we, as a city, have much to be thankful for. I fully expect that our slogan "Good and Great Things are Happening in Durham" will continue to be a reality in many ways.

Thank You and May God continue to Bless Durham and its residents as we enter into this Holiday Season and beyond.

Council Members Catotti, Ali and Brown thanked their family, friends, campaign workers and the citizens of Durham for their support.

Council Member Brown made comments on the drought situation. He stated the City needs a comprehensive plan that addresses, but is not limited to the following: our water capital needs with priorities and dates for completion, penalties and fine implementation for residential and commercial buildings; public education and compliance, our current rate structure-- what changes are needed and an analysis of the relationship between growth and drinking water supply, cost—where is funding going to come from and who will pay for it. He asked Council to devise a plan by January 2008.

H. Designation of Mayor Pro Tempore by Council Members

MOTION by Council Member Clement seconded by Council Member Woodard to re-appoint Cora Cole-McFadden as the Mayor Pro Tempore was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

At this time, Mayor Bell made comments on the listing of the Council Committees Appointed by the Mayor dated December 3, 2007.

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Council Member Clement asked that the wording in the parenthesis after Passenger Vehicle for Hire Commission be deleted.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the Council Committees Appointed by the Mayor dated December 3, 2007 was approved at 8:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[The Council recessed until 8:20 p.m.]

Mayor Bell called the December 3, 2007 City Council Meeting to order with a moment of silent meditation and the pledge of allegiance by Council Member Clement.

Mayor Bell read a Resolution of Support for the December 17, 2007 Appeal to the Highway Historic Marker Advisory Committee [Royal Ice Cream Sit-In] that was presented to Virginia Williams who made comments along with Senator Floyd B. McKissick, Jr.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Baker gave a status report on the water supply. He reported an agenda item will be presented on Thursday at the Work Session in response to questions raised by Mayor Bell and Council Member Brown. He updated Council on the following: current lake levels, water supply days remaining – 52 days; the Teer Quarry that will be brought on line in the next two weeks; Stage 4 water restriction; interconnection with Cary; design and construction of 2nd interconnection with Cary; reduction usage; and utilization of two-thirds bond concerning water supply.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to accept the City Manager's priority item was approved at 8:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item #12 [Water and Sewer Extension Agreement with Jordan at SouthPointe] was pulled.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Consent Agenda as amended was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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[CONSENT AGENDA]

SUBJECT: WYNN ROAD STREET PAVING PROJECT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept the Wynn Road Street Paving Project report, as presented and approved at the October 22, 2007 meeting of the Audit Services Oversight Committee was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: 2005 GENERAL OBLIGATION BONDS FINANCIAL AUDIT (OCTOBER 2007)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept the 2005 General Obligation Bonds Financial Audit (October 2007) as presented and approved at the October 22, 2007 meeting to the Audit Services Oversight Committee was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM HOUSING AUTHORITY – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept applications for a citizen to fill one (1) vacancy on the Durham Housing Authority with the term to expire on September 28, 2012 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept an application for a citizen to fill one (1) vacancy on the Durham City-County Environmental Affairs Board with the term to expire on June 1, 2009 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION – RECEIPT AND ACCEPTANCE OF AN APPLICATION

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept an application to fill one (1) vacancy on the Human Relations Commission for a Non-Minority Female with the term to expire on June 30, 2010 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT BOARD – RECEIPT AND
 ACCEPTANCE OF APPLICATIONS**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept applications for citizens to fill two (2) vacancies on the Workforce Development Board with the terms to expire on June 30, 2009 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – NINE SEMI-AUTOMATED REFUSE COLLECTION BODIES -
 AMICK EQUIPMENT COMPANY, INC.**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the bid from Amick Equipment Company, Inc., in the amount of \$887,067.00 for providing the City with nine Semi-Automated Refuse Collection Bodies;

To authorize the City Manager to enter into a contract with Amick Equipment Company, Inc., in the amount of \$887,067.00 for providing the City with nine Semi-Automated Refuse Collection Bodies; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – NINE LOW ENTRY REFUSE COLLECTION CAB AND CHASSIS
 - SOUTHERN TRUCK SERVICE, INC.**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the bid from Southern Truck Service, Inc., in the amount of \$1,118,637.00 for providing the City with nine Low Entry Refuse Collection Cab & Chassis;

To authorize the City Manager to enter into a contract with Southern Truck Service, Inc., in the amount of \$1,118,637.00 for providing the City with nine Low Entry Refuse Collection Cab & Chassis; and

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To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT – OCTOBER 2007

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of October 2007 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Date: November 6, 2007

To: Patrick W. Baker, City Manager

Through: Wanda S. Page, Deputy City Manager
Kenneth C. Pennoyer, Finance Director

From: Joseph W. Clark, CLGPO, Purchasing Manager

Subject: Bid Report – October 2007

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **October 2007**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid:** **2007 Bond Referendum Voter Education Mailer**

Purpose of Bid: To print and distribute the 2007 Bond Referendum Voter Education Mailer for the Office of Public Affairs.

Comments:

Opened: September 26, 2007

Bidders:	MarketPlace-Mail.com	*\$21,648.00
	Raleigh, NC	
	Progressive Business Solutions	\$23,128.00
	Raleigh, NC	

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Theo Davis Printing
Zebulon, NC

\$26,783.00

Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2		# Black Males	0	0%
Total # Females	1	50%	# White Males	1	50%
Total # Males	1	50%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	0	0%
			# Other Females	1	50%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: Three (3) Roll-Off Hoist Bodies

Purpose of Bid: To provide the Solid Waste Management Department with Roll-Off Hoist Bodies. The bodies will be mounted on trucks and used in the Commercial Waste pickup program.

Comments: Three bodies at \$29,530 each

Opened: October 19, 2007

Bidders:	Amick Equipment Company, Inc.	*\$88,590.00
	Lexington, SC	
	Allwaste Services, Inc.	\$95,502.00
	Lexington, SC	

Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	0	0%
Total # Females	4	20%	# White Males	16	84%
Total # Males	16	80%	# Other Males	0	0%
			# Black Females	1	5%
			# White Females	3	15%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

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3. Bid: One (1) Cab & Chassis

Purpose of Bid: To provide the Public Works Department with a cab & chassis.

Comments:

Opened: October 19, 2007

Bidders:	Colonial Truck Sales, Inc.	*\$ 89,975.00
	Ashland, VA	
	M-B Companies	\$101,657.00
	Montgomery, PA	

Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	64		# Black Males	5	7%
Total # Females	12	19%	# White Males	45	70%
Total # Males	52	81%	# Other Males	1	2%
			# Black Females	1	2%
			# White Females	11	17%
			# Other Females	1	2%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Replace HVAC unit at the Fire Administration Building

Purpose of Bid:

Comments:

Opened: October 30, 2007

Bidders:	Carolina Air Conditioning	*\$13,980.00
	Durham, NC	
	Comfort Engineers	\$14,000.00
	Durham, NC	
	Hay's Heating & Air Conditioning	\$20,375.00
	Hillsborough, NC	

Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS

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CORPORATION STATISTICS

Total Workforce	15		# Black Males	1	7%
Total # Females	3	20%	# White Males	8	53%
Total # Males	12	80%	# Other Males	3	20%
			# Black Females	0	0%
			# White Females	3	20%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT- WINSFORD IN THE PARK (FORMERLY ROYAL GLEN) (D06-489)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve a major site plan and preliminary plat for "Winsford in the Park," submitted by Horvath Associates, PA, on behalf of The Windstar Land Company, Inc., to construct a 155 unit townhome development with clubhouse and pool on 35.67 acres zoned RS-M (D)--the site is located at the northwestern corner of Northeast Creek Parkway and Ellis Road. PIN 0739-02-88-4937 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE QUARTERLY REPORT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report from the Capital Program Advisory Committee for the July - September 2007 quarter was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: COMMUNITY DEVELOPMENT HOUSING DEVELOPMENT ORGANIZATION (CHDO) GRANT AGREEMENT BETWEEN THE CITY OF DURHAM AND DURHAM COMMUNITY LAND TRUSTEES, (DCLT) FOR PRE-DEVELOPMENT SITE COSTS FOR CAMERON PLACE

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to expend FY 2006-2007 HOME CHDO funds in an amount not to exceed \$30,000.00;

To authorize the City Manager to execute a HOME Community Housing Development Organization (CHDO) Grant Agreement and other related legal documents with Durham Community Land Trustees, Inc. in an amount not to exceed \$30,000.00 to provide funding for pre-development site costs; and

To authorize the City Manager to modify any of the documents before execution provided that the modifications do not increase the dollar amount of the Agreements and do not lessen the obligations of the contractor was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT WITH THE COMMUNITY BUILDERS INC.
– HOLMAN HOMES REDEVELOPMENT**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment with The Community Builders Inc. revising the original budget; and

To authorize the City Manager to modify the contract amendment before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BUSINESS LOAN REPORT FOR SEPTEMBER 2007

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the Business Loan Report for September 2007 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM PERFORMING ARTS CENTER NAMING RIGHTS
AGREEMENT FOR ATRIUM (BCBS) – BLUE CROSS AND BLUE
SHIELD OF NORTH CAROLINA**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the Naming Right Sponsorship contract of the Atrium at the Durham Performing Arts Center in the amount of \$1,000,000.00 to be paid by Blue Cross and Blue Shield of North Carolina;

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To authorize the City Manager to make modifications to the contract so long as the modifications do not increase the dollar amount or decrease the scope of services provided to the City;

To authorize the City Manager to execute an amendment to the Durham Performing Arts Center Operating Agreement which incorporates provisions of the Blue Cross and Blue Shield of North Carolina Naming Rights Agreement; and

To authorize the City Manager to make modifications to the amendment so long as the modifications do not increase the dollar amount or decrease the scope of service provided to the City was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: RIGSBEE SUBSTATION AND FORENSIC LAB CMAR
CONSTRUCTION SERVICES – SKANSKA USA BUILDING**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract Amendment No. 2 for construction phase services for the Rigsbee Substation, if the final GMP offered by the CMAR does not exceed the full amount available for construction of \$3,007,238.00;

To authorize the City Manager to establish a project contingency in the amount of \$202,000.00; and

To authorize the City Manager to negotiate and execute change orders on Amendment No. 2, provided the total project cost does not exceed \$3,209,238.00 which is the full amount budgeted for construction phase services plus the project was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: FIELD RENOVATIONS AT VALLEY SPRINGS PARK CONSTRUCTION
CONTRACT CHANGE ORDER – VALLEYCREST LANDSCAPE
DEVELOPMENT, INC.**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute Change Order No. 1 to the Agreement to provide amended construction services for Field Renovations at Valley Spring Park in the amount of \$40,000.00 so that total contract amount will not exceed \$139,505.00;

To authorize the City Manager to make changes to the change order before executing it if the changes do not increase the price to be paid by the City and do not decrease the goods and services to be provided to the City; and

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To authorize the City Manager to increase the project contingency by \$159.65 for a total project contingency of \$654.65 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED FIVE-YEAR LEASE AGREEMENT WITH DURHAM BULLS BASEBALL CLUB, INC. PORTION OF PARCEL 103356 – OFFICE SPACE AT DURHAM BULLS ATHLETIC PARK

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the Lease with Durham Bulls Baseball Club, Inc. for office space at the Durham Bulls Athletic Park;

To authorize the City Manager to make changes to the Lease provided such changes do not materially affect the intent and purpose of the Lease and agenda memo; and

To approve the proposed plans for up-fit of the premises and incorporate them into the lease document was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: SECOND AMENDMENT TO AGREEMENT FOR LANDSCAPE ARCHITECTURAL SERVICES AND CMAR CONTRACT AMENDMENT FOR CONSTRUCTION SERVICES FOR CAMPUS HILLS PARK RENOVATIONS - REGENBOGEN ASSOCIATES - SKANSKA USA BUILDING

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment to Agreement for Landscape Architectural Services for Campus Hills Park Improvements Phase I with Regenbogen Associates in the amount of \$16,825.00 so that the total contract amount will not exceed \$95,157.00;

To authorize the City Manager to make changes to the contract amendment before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To authorize the City Manager to negotiate and execute a Parks Projects Bundle Amendment No. 2 with Skanska USA Building for construction of Campus Hills Weight Room and Park Renovations Project, if the Guaranteed Maximum Price (GMP) does not exceed \$679,415.00, and establish a project contingency in the amount of \$41,234.00; and

To authorize the City Manager to negotiate and execute change orders on the Campus Hills Weight Room and Park Renovations Project provided the total project cost does not exceed the

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amount of the contract plus contract contingency was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CAPITAL PROJECT ORDINANCE AMENDMENT TO ADD FUNDS TO THE DURHAM SKATEBOARD FACILITY PROJECT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending the Capital Project Ordinance 2006-07, as amended, the same being Ordinance #13428 for the purpose of increasing the funding of the Durham Skateboard Park project by \$225,000.00 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13510

SUBJECT: TRANSIT CAPITAL GRANT AND BUDGET AMENDMENT 2007-08

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a grant agreement accepting \$300,000.00 from the North Carolina Department of Transportation (NCDOT) for the purchase of five (5) cut-away transit vehicles; and

To adopt an Ordinance Amending the 2007-08 City of Durham Budget Ordinance, the same being Ordinance #13451 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13511

SUBJECT: FIXED ROUTE TRANSIT CONTRACT AMENDMENT – MV CONTRACT TRANSPORTATION, INC. – DURHAM CITY TRANSIT COMPANY, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the Fixed Route Transit Contract Amendment;

To recognize the assignment by MV Contract Transportation Inc. of the Durham Area Transit Authority Fixed Route Service Contract to the Durham City Transit Company Inc. (DCTC) on October 1, 2007;

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To authorize the City Manager to expend funds for the payment of operating expenses, including the management fee to DCTC not to exceed the annual budget appropriation for the DATA operations, which for the current fiscal year is \$10,597,613.00; and

To authorize the City Manager to advance working cash to the DCTC up to \$1,750,000.00 at any given time with the annual total not to exceed the amount appropriated by the City Council was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FR-1, 2007 FACILITY RESURFACING, WATER MANAGEMENT PLANTS - BARRETT, IRVIN, AND JORDAN CONTRACTORS, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with Barrett, Irvin, and Jordan Contractors, Inc. for Contract FR-1 – 2007 Facility Resurfacing in the amount of \$454,422.95;

To authorize the City Manager to establish a contingency fund for Contract FR-1 of \$68,163.44;

To authorize the City Manager to negotiate change orders for Contract FR-1 provided that the cost of all change orders does not exceed \$68,163.44 and the total project cost does not exceed \$522,586.39; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: RALEIGH INTERCONNECTIONS ENGINEERING DESIGN SERVICES - MCKIM & CREED

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with McKim & Creed for the Raleigh Interconnections Engineering Design for a cost not to exceed \$543,000.00;

To authorize the City Manager to establish a contingency fund in the amount of \$146,000.00;

To authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$146,000.00 and the total project cost does not exceed \$689,000.00; and

To authorize the City Manager to make changes to the contract provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be

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provided to the City was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: UPDATE ON THE 10-YEAR PLAN TO END HOMELESSNESS IN DURHAM - TRIANGLE UNITED WAY AND DURHAM AFFORDABLE HOUSING COALITION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a presentation on the implementation of the 10-Year Plan to End Homelessness in Durham by Triangle United Way;

To approve the Implementation Contract between the Triangle United Way and Durham Affordable Housing Coalition; and

To authorize the City Manager to expend \$30,000.00 in General Funds and \$19,000.00 in Housing Bond Program Income; for a total amount of \$49,000.00 in support of the Implementation Contract was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the November 20, 2007 Work Session:

3. Approval of City Council Minutes

To approve City Council minutes for the November 5, 2007 City Council Meeting; and

To approve City Council action taken at the October 18, 2007 City Council Work Session.

(This item was referred back to the Administration – City Clerk’s Office)

15. Amendments to the Volunteers of America (VOA) Loan Agreements

To authorize the City Manager to execute an amendment to the existing loan agreements and related documents for VOA Durham Life House, Inc. and VOA Durham Maple Court, Inc. for the City to assume the third lien position during the construction and permanent phases of the loans.

(This item was approved at the 11-20-07 Work Session with a vote of 5/0)

22. Chapel Hill Street Parking Deck CMAR Construction Amendment for Structural

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Repairs

To authorize the City Manager to negotiate and execute a General Services Bundle Amendment No. 2 with Balfour Beatty for construction of repairs at Chapel Hill St. parking deck if the Guaranteed Maximum Price (GMP) does not exceed \$732,600.00;

To authorize the City Manager to establish a project contingency in the amount of \$ 51,300.00; and

To authorize the City Manager to negotiate and execute change orders on the Amendment No. 2, provided the total cost does not exceed \$783,900.00 which is the full amount budgeted for construction phase services plus the project contingency.

(This item was approved at the 11-20-07 Work Session with a vote of 6/0)

25. Teague-Hankins Medical Facility Site

To direct the City Manager to negotiate an amendment to the Annexation Agreement with Raleigh that would cede the Teague-Hankins tract to Raleigh's jurisdiction subject to the conditions described in this report;

To authorize the City Manager to negotiate a temporary utility service agreement with Raleigh for the Durham service area in Wake County; and

To authorize the City Manager to initiate the process to obtain the necessary approvals from the applicable governing boards to effectuate these agreements.

(This item was referred back to the Administration – City Manager's Office)

34. Royal Seven Marker Committee

To receive comments from Eddie Davis regarding a state historic marker for the June 23, 1957 Royal Ice Cream Parlor Sit-in.

(Comments were received and the Resolution of Support for the December 17, 2007 Appeal to the Highway Historic Marker Advisory Committee at the Office of Archives & History – North Carolina Department of Cultural Resources was approved at the 11-20-07 Work Session with a vote of 6/0)

35. Jimmy Lawton

To receive comments from Jimmy Lawton regarding debris and rats in their neighborhood.

(Comments were received at the 11-20-07 Work Session)

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36. JRuth, Inc.

To receive comments from Johnetta Alston regarding Graduation of Self Sufficiency.

(Comments were received at the 11-20-07 Work Session)

[GENERAL BUSINESS AGENDA]

**SUBJECT: REPORT ON THE PROPOSED TWO-THIRDS BONDS FINANCING
FOR FY 2008-09**

City Manager Baker reported the purpose of this item is to receive a report on the proposed two-thirds bonds. He stated the projects will be discussed on Thursday at the Work Session with Council taking action on those projects at its December 17th City Council Meeting.

Council Member Clement asked the City Manager to provide information on how much money would be available to meet the needs of the American Tobacco Trail, how much money would be utilized to fund water supply projects and can money be allocated from the two-thirds bonds to support the water supply projects and the American Tobacco trails.

City Manager Baker stated more details on the two-thirds bond projects will be discussed at the Work Session on Thursday.

Council Member Catotti asked staff to provide information on the actual cost of the second interconnection with Cary by Thursday.

Mayor Pro Tempore Cole-McFadden asked the administration to provide a copy of the agreement with the Department of Justice relative to ADA compliance at Thursday's Work Session.

Daniel Clever asked Council to set aside funds from the two-thirds bonds for the American Tobacco Trail - Phase E and the 147 Pedestrian Bridge projects.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a report on the Proposed Two-Thirds Bonds Financing for FY 2008-09 was approved at 8:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[PUBLIC HEARINGS]

**SUBJECT: ORDERING PETITIONED IMPROVEMENT - SEWER MAIN AND
SEWER OUTFALL ON UMSTEAD ROAD**

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Engineering and Stormwater Manager Lee Murphy made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution ordering Sewer Main and Sewer Outfall on Umstead Road from the West Property Line of PIN 0804-02-96-1256 to the East Property Line of PIN 0814-01-06-4576 was approved at 8:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JULY 31, 2007

To receive citizens' comments concerning the annexation of the following Voluntary Annexation Areas:

a) FY2007-17 Glenn View Station

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Redwood VFD.

b) FY2008-01 Newhope Church

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007.

c) FY2008-03 Finsbury Phase II

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-31-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Parkwood VFD

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d) FY2008-04 Bethesda Park

To adopt “An Ordinance Annexing to the City of Durham” of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007.

e) FY2008-06 Steel Blue/JT Properties of Durham, LLC

To adopt “An Ordinance Annexing to the City of Durham” of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Bethesda VFD.

f) FY2008-05 TW Alexander Properties

To adopt “An Ordinance Annexing to the City of Durham” of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Parkwood VFD. [

g) FY2007-14 Jordan at Southpoint

To adopt “An Ordinance Annexing to the City of Durham” of the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to enter into a half base contract with the Parkwood VFD.

Assistant City Manager for Budget and Strategic Initiatives Julie Brenman stated the cost benefit analysis for all of these properties shows a net gain to the City with the exception of the New Hope Church and Bethesda Park properties. She reported due to their proximity to the City limits and one being a City Park, staff recommends that these properties be annexed.

Mayor Bell opened the public hearing.

Relative to the Jordan at Southpoint annexation, Council Member Catotti asked staff if this item should be held until the extension agreement for Jordan at SouthPointe, LLC [Consent Agenda Item #12] has been discussed.

Assistant City Manager for Budget and Strategic Initiatives Julie Brenman replied yes.

There being no one to speak in support for or against the voluntary annexations [a-f], Mayor Bell closed the public hearing for all annexation items except g—Jordan at Southpoint.

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MOTION by Council Member Clement seconded by Council Member Woodard to receive citizens' comments concerning the annexation of the following Voluntary Annexation Areas: FY2007-17 Glenn View Station; FY2008-01 Newhope Church; FY2008-03 Finsbury Phase II; FY2008-04 Bethesda Park; FY2008-06 Steel Blue/JT Properties of Durham, LLC; and FY2008-05 TW Alexander Properties; and

To adopt "an Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY 2007-17 Glenn View Station] in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Redwood VFD was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13512

MOTION by Council Member Clement seconded by Council Member Woodard to adopt "an Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2008-01 Newhope Church] in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007 was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13513

MOTION by Council Member Clement seconded by Council Member Woodard to adopt "an Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2008-03 Finsbury Phase II] in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007.

To authorize the City Manager to pay the debt service of the Parkwood VFD was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13514

MOTION by Council Member Clement seconded by Council Member Woodard to adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2008-04 Bethesda Park] in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007 was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13515

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MOTION by Council Member Clement seconded by Council Member Woodard to adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2008-06 Steel Blue/JT Properties of Durham, LLC] in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13516

MOTION by Council Member Clement seconded by Council Member Woodard to adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2008-05 TW Alexander Properties]in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Parkwood VFD was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13517

g) FY 2007-14 Jordan at Southpoint - Annexation

George Brine, 6505 Hunters Lane, spoke against the Jordan at Southpoint annexation. He stated Durham would be increasing the number of water customers at a time when Durham is under exceptional drought conditions and Durham does not have sufficient water to service its present customers. He made a suggestion that all applications for future water service be placed on hold until Durham acquires sufficient capacity to meet the increased demand. Also, he stated supporting further urban sprawl is an inappropriate use of Durham's precious water resources. He urged Council to say no to this annexation because it would not increase the water supply, would not protect the watershed, and would not reduce greenhouse gas emissions.

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this annexation. He stated this annexation has met all requirements designated by the City of Durham, reported that construction on the first home would not take place until 2009, and this project would take four to five years to build-out. Attorney Spaulding urged Council to approve this annexation request because it would be an economic and financial benefit to the city and the taxpayers of Durham for years to come.

George Stanziale, representing the applicant, spoke in support of this annexation request. He commented on the review process by all departments on this project. He stated the applicant is working on issues raised in a letter from the Planning Department. He made comments on the issues of urban sprawl and the pump station that will serve this region.

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Council held discussion on staff's recommendation and the upcoming review by Development Review Board.

City Manager Baker made comments on the City's annexation policy.

Mayor Bell made comments on the drought status relative to the Comprehensive Plan and stated there should be an assessment of what this development and other developments would have on the City's water and sewer resources.

Interim City/County Planning Director Steve Medlin noted an upcoming evaluation will be discussed at Wednesday's Joint City/County Planning Committee Meeting to review the Comprehensive Plan as it relates to the urban growth area, land use, built-out projections, etc. He gave a summary of the memo sent to Joint City/County Planning concerning this issue and shared that based on the average consumption of water resources, sewer resources--the City's build out projections indicate there are adequate resources available moving forward as currently programmed based on the situation a number of years ago; however, staff will go back and reassess the basis for those assumptions.

Council Member Woodard invited his colleagues to attend the Joint City/County Planning Committee Meeting on Wednesday for a report that will be given on this issue.

Deputy City Manager Ted Voorhees made comments on a short-term approach--withholding permits, etc.

Mayor Bell asked the City Attorney does Council have to the right to deny a developer when they have met the all requirements of the ordinance.

City Attorney Blinder noted staff will explore this issue and report back.

Council Member Catotti asked to staff to provide information on the capacity for 2010, 2015, 2020, 2025 and 2030 for discussion at Wednesday's Joint City/County Planning Committee Meeting.

NOTE: Further discussion on this item was held during Item #12--Water and Sewer Extension Agreement with Jordan at SouthPointe, LLC.—which was pulled from the Consent Agenda.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH JORDAN AT SOUTHPOINTE, LLC

To authorize the City Manager to enter into a water and sewer extension agreement with Jordan at SouthPointe, LLC to serve Jordan at Southpoint Subdivision.

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Council Member Catotti stated she does not object to extending water and sewer services or annexing this property. At this point she stated she would be voting against both items [water and sewer extension and annexation] and explained that the applicant is planning to build a conservation subdivision, but to-date they have not successfully addressed the concerns expressed by staff in a detailed memo. She stated Joint City/County Planning has strengthened the conservation subdivision provisions to address gaps in the existing ordinance. She stated the applicant has complied with the technical standards of the conservation subdivision, but not with the intent--smart growth land use--and what has been submitted to-date by the applicant does not reflect that. She urged her colleagues to vote against this project.

City Attorney Blinder made comments on deferring this item until staff researches the issue raised by Council.

Council held discussion on the effective date of annexation; deferral of this item and the SouthPointe annexation.

Attorney Kenneth Spaulding, representing the applicant, made comments in support of the deferral and suggested that the public hearing on the annexation be continued to December 17, 2007 City Council Meeting to allow staff and the developer time to review questions raised.

After further discussion, a motion was made by Council Member Woodard seconded by Council Member Catotti to defer this item.

City Attorney Blinder made comments on why the water and sewer extension agreement and annexation items should be kept together and suggested that both items be deferred to December 17, 2007 City Council Meeting.

A substitute motion was made by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to defer this item and Jordan at SouthPointe annexation to December 17, 2007 City Council Meeting.

A substitute to the substitute motion was made by Council Member Catotti seconded by Council Member Woodard to defer this item to the January 24, 2008 City Council Work Session.

Discussion was held by Council on the impact the deferral would have on the applicant.

Jerry Owen, representing SouthPointe, LLC, stated the delay would cost \$45,000 a month.

SUBSTITUTE TO SUBSTITUTE MOTION by Council Member Catotti seconded by Council Member Woodard to defer this item to the January 24, 2008 City Council Work Session **FAILED** at 9:56 p.m. by the following vote: Ayes: Council Members Ali, Catotti and Woodard. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown and Clement. Absent: None.

SUBSTITUTE MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to defer this item until the December 17, 2007 City Council Meeting was approved at

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9:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

At this time during the meeting, Council action was taken on GBA #33-G [FY2007-14 Jordan at Southpoint]

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2007-14 Jordan at Southpoint] in accordance with N.C. General Statutes 160A-58 effective from and after; and

To authorize the City Manager to enter into a half base contract with the Parkwood VFD.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing on this item without further advertising to December 17, 2007 City Council Meeting was approved at 9:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:57 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk